United Nations A/ES-10/PV.27

General Assembly
Tenth Emergency Special Session

Official Records

27th meeting
Tuesday, 20 July 2004, 4 p.m.
New York

President: The Hon. Julian R. Hunte ..... (Saint Lucia)

The meeting was called to order at 4.10 p.m.

Agenda item 5 (*continued*)

Illegal Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian Territory

The President: I now give the floor to the representative of Jordan to introduce draft resolution A/ES-10/L.18/Rev.1, which has been circulated in provisional form.

Mr. Zoubi (Jordan): I have the honour to introduce, on behalf of the Arab Group and the sponsors listed in document A/ES-10/L.18, as amended in document A/ES-10/L.18/Rev.1 in its provisional form, a draft resolution entitled "Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem". I may add that we have made sure that the revised text has been distributed to all missions in advance.

The structure of the revised draft resolution has been thought through with extreme care, taking into consideration the points of view of interested countries and groups of countries. The text is divided into three closely connected parts. The first two parts fall within the preambular section and the third constitutes the operative part.

The first preambular part contains the terms of reference alluded to in the Court's opinion, as well as fundamental elements relevant to the subject matter, all of which are familiar to all of us. The text also specifies that the General Assembly receives with respect the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the occupied Palestinian territory, rendered on 9 July 2004.

In the second part of the preambular section, the draft quotes the Court's reply to the question put forth by the General Assembly in resolution ES-10/14, which we believe, when taken together with the terms of reference and other essential elements, is necessary for the purposes of setting up the operative part.

As for the operative part, it consists of eight paragraphs, beginning with the General Assembly's acknowledgement of the advisory opinion rendered by the International Court of Justice, pursuant to a request put forward by the Assembly itself last October. The draft then goes on to demand Israel's compliance with its international legal obligations, as identified in the Court's opinion, as well as compliance by all States with their own legal obligations, as identified in the opinion itself. Moreover, the draft, in its operative part, calls on States parties to the Fourth Geneva Convention of 1949 to ensure Israel's compliance with international humanitarian law. It also invites Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and to report to the General Assembly on the matter, with regard to the possibility of resuming the Conference of

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High Contracting Parties to the Fourth Geneva Convention.

We believe that a practical measure which the General Assembly should take as a result of the advisory opinion is to request the Secretary-General to establish a register of damage caused by the building of the wall in the occupied Palestinian territory. This has been reflected in operative paragraph 4.

Finally, we hope that the General Assembly will unanimously adopt the draft resolution, as revised. I beg members' permission to allow for further amendments to be presented from the floor.

The President: Before we proceed further, I should like to consult the Assembly with a view to proceeding immediately to consider the draft resolution contained in document A/ES-10/L.18/Rev.1 in its provisional form. In this connection, since the revised draft resolution has been circulated only today, it would be necessary to waive the relevant provision of rule 78 of the rules of procedure.

The relevant provision of rule 78 reads as follows:

> "As a general rule, no proposal shall be discussed or put to the vote at any meeting of the General Assembly unless copies of it have been circulated to all delegations not later than the day preceding the meeting."

Unless I hear any objection, I shall take it that the Assembly agrees with this proposal.

It was so decided.

The President: We shall now proceed to consider draft resolution A/ES-10/L.18/Rev.1 in its provisional form.

I call on the representative of the Netherlands on a point of order.

Mr. Peersman (Netherlands): In our capacity as the European Union Presidency, we would like to ask your indulgence, Sir, in requesting some time for consultations before we continue the meeting. Would you be able to grant that request?

The President: A request has been made for a suspension of the meeting to allow for further consultations on the draft resolution.

By virtue of the discretion vested in me, I hereby suspend the meeting.

The meeting was suspended at 4.20 p.m. and resumed at 6.55 p.m.

The President: I apologize for the delay. I am sure that the majority of those who have been members of this body for many years appreciate that that is nothing unusual. It is a testimony to the strength of the Organization and to its resilience that we are able to exercise such a great measure of good governance. I thank members for that.

I give the floor to the representative of Liechtenstein to introduce amendments to draft resolution A/ES-10/L.18/Rev.1, as previously circulated in provisional form.

Mr. Wenaweser (Liechtenstein): As members know, lengthy and complex consultations have been carried out on draft resolution A/ES-10/L.18/Rev.1 in its provisional form. As a result of those consultations, I have been asked by the main parties involved in the talks to read out to the Assembly the changes to the draft resolution, upon which they have agreed. I will do so in order to facilitate the proceedings of the Assembly. I understand that the text that I am about to read out has been distributed in the room.

There are, to begin with, two new preambular paragraphs. Immediately following the fourteenth preambular paragraph, which begins, "Condemning all acts of violence", two new preambular paragraphs are to be inserted. They read as follows:

> "Calling upon both parties to fulfil their obligations under relevant provisions of the road map, the Palestinian Authority to undertake visible efforts on the ground to arrest, disrupt and restrain individuals and groups conducting and planning violent attacks and the Government of Israel to take no actions undermining trust, including deportations and attacks on civilians and extrajudicial killings,
>
> "Reaffirming that all States have the right and the duty to take actions in conformity with international law and international humanitarian law to counter deadly acts of violence against their civilian population in order to protect the lives of their citizens".

Those two new paragraphs constitute all the changes that are to be made to the preambular part.

I now turn to the operative part of the draft resolution. In paragraph 2, the word "identified" is to be replaced with the word "mentioned". In paragraph 3, the first word, "Demands", is to be replaced with the words "Calls upon", and the word "identified" is to be replaced with the word "mentioned". Finally, in paragraph 7, the word "compliance" is to be replaced with the word "respect".

Those are all the changes that I have been asked to read out. I hope that that will facilitate our work this evening.

Mr. Zoubi (Jordan): Jordan, on behalf of the Arab Group and the sponsors, accepts the amendments presented by the Permanent Representative of Liechtenstein. We appreciate his efforts.

Mr. Van den Berg (Netherlands): The Netherlands, on behalf of the European Union, can accept the amendments as put forward by the Permanent Representative of Liechtenstein.

The President: In view of the statements just made, we shall now proceed to consider draft resolution A/ES-10/L.18/Rev.1, as orally amended in its provisional form.

I give the floor to the representative of the Secretariat.

Ms. Kelly (Department for General Assembly and Conference Management): In connection with draft resolution A/ES-10/L.18/Rev.1, as orally amended in its provisional form, I should like, on behalf of the Secretary-General, to inform Member States that by operative paragraphs 4, 5, 7 and 8, the General Assembly would:

> "[Request] the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the Advisory Opinion" (*para. 4*);
>
> "[Decide] to reconvene to assess the implementation of the present resolution, with the aim of ending the illegal situation resulting from the construction of the wall and its associated regime in the Occupied Palestinian Territory, including East Jerusalem" (*para. 5*);
>
> "[Call] upon all States Parties to the Fourth Geneva Convention of 1949 to ensure respect by Israel for the Convention, and invites Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and to report to the General Assembly on the matter, including with regard to the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention" (*para. 7*); and
>
> "[Decide] to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States." (*para. 8*)

Should the General Assembly adopt draft resolution A/ES-10/L.18/Rev.1, as orally amended in its provisional form, with regard to operative paragraph 4, the Secretary-General would proceed to establish the scope of work arising from the request and revert to the General Assembly on its implications. Given the number of disciplines involved, the resource requirements are anticipated to relate to several budget sections of the programme budget.

As concerns operative paragraphs 5, 7 and 8, at this stage no financial implications are anticipated, based on the assumption that no official document involving translation is expected, that operative paragraph 7 does not imply further meetings of United Nations bodies and that only one possible additional report is assumed, the size of which cannot be determined at this stage.

Finally, I wish to inform members that the draft resolution, as orally amended in its provisional form, will be issued as an official document under the symbol A/ES-10/L.18/Rev.1.

The President: I shall now call on those representatives who wish to speak in explanation of vote before the voting. May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Clodumar (Nauru): At the meeting of the resumed tenth emergency special session of the General Assembly held on 8 December 2003 (see A/ES-10/PV.23), my delegation cast a negative vote on the resolution referring to the International Court of Justice the question of the legal consequences of the

construction of a wall in the occupied Palestinian territory, including in and around East Jerusalem. The reason for our action was essentially that we agreed with the view that a resolution of the Middle East conflict will be found not through non-binding judicial intervention, but through a political process that is highly dependent on the political will of the leaders to lead their people towards peace.

We have not changed our view in that regard. However, we have now gone beyond that point, and the Court — having decided unanimously that the General Assembly had the authority to refer the question of the wall to the Court and that the Court had jurisdiction to deal with that referral — issued its advisory opinion on 9 July. The draft resolution before the Assembly relates to that subject.

My delegation listened carefully to the statements made last Friday, and we have studied the draft resolution. We have come to the conclusion that the draft resolution has gone beyond being a procedural one to accept the advisory opinion of the Court — I refer to operative paragraph 1, which we can support, together with operative paragraphs 6, 7 and 8 — to become a substantive motion requesting, nicely or otherwise, Israel and other Member States to act upon the legally non-binding opinion of the Court. Here, I refer to paragraphs 2 and 3.

Secondly, we do not believe that the General Assembly is the appropriate forum in which to demand action that touches upon peace and security, inter alia. Therefore, my delegation cannot support that proposal. My delegation sees paragraph 4 as pre-empting the capacity of the Palestinians to establish such a register. Other avenues of assistance should be explored before the limited resources of the United Nations are committed. Therefore, we do not support that proposal either.

We view operative paragraph 5 as much more than a procedural paragraph, since the purpose of reconvening the emergency session has been conditioned on the implementation of demands set out in paragraph 3. We cannot support that proposal. Therefore, the net result of our views on the draft resolution is that my delegation will abstain in the voting.

Mr. Cunningham (United States of America): We regret the rush of the General Assembly to adopt this draft resolution. A durable solution is to be found only in a negotiated settlement between Israelis and Palestinians. From the outset, we have counselled against taking any action that would interfere or be inconsistent with peace efforts in accordance with the road map. The draft resolution diverts attention from where it should be: on practical efforts to move the parties towards the realization of the ultimate goal of two States living side by side in peace and security. This distraction is precisely what last autumn we feared could happen. The draft resolution remains unbalanced. Nor does the draft resolution reflect the fact that the Court's decision may be quite limited in its practical significance since it was based on information about Israel's security barrier dating from last year. Much has changed since then, including the Israeli High Court's recent binding decision, which has led to an ongoing process in Israel to adjust the location of the barrier.

We also regret the effort to politicize the Court's non-binding opinion in this matter. Last autumn, we expressed our concern about the potential risks to the International Court of Justice of such misuse. Moreover, we remain concerned about some of the apparent legal conclusions in the opinion. For example, it seems to say that the inherent right of self-defence under Article 51 of the United Nations Charter does not apply when a State is attacked by terrorist organizations. That seems to be directly at odds with the Security Council's resolutions adopted after 11 September 2001, which confirm the right of self-defence in the face of a terrorist threat.

We also have serious concerns about the push to convene a conference of the High Contracting Parties to the Fourth Geneva Convention. As in the past, we oppose efforts to politicize the Geneva Conventions, and we would not attend if such a meeting were held.

The United States remains convinced that the focus must remain on President Bush's vision of two States, Israel and Palestine, living side by side in peace and security, and on the road map as the appropriate means to realize that vision. All sides are now focused on Gaza and partial West Bank withdrawal as a way to restart the progress towards that vision. The United States, the Quartet, the international community and regional partners are all engaged in intensive planning and discussion about implementation of Israeli disengagement from Gaza and parts of the West Bank and related practical matters of security, Palestinian reform and the economic and humanitarian needs of

Palestinians. The United States has resolved to continue to seek a successful outcome to these efforts and to realize peace in the Middle East.

Mr. Rodríguez Zahar (Mexico) (*spoke in Spanish*): Last December, with Mexico's vote in favour, the tenth emergency special session of the General Assembly adopted the historic resolution ES-10/14, which requested an advisory opinion of the International Court of Justice. In that manner, Mexico expressed its deep concern at the content of the report of the Secretary-General on the construction of a wall in the occupied Palestinian territory, including East Jerusalem (A/ES-10/248). At the same time, we expressed our confidence in the International Court of Justice to resolve the question before it in accordance with international law. The General Assembly's action was responsible and adhered to the Charter of the United Nations, whose preamble cites the need, "to establish conditions under which justice and respect for the obligations arising from treaties ... can be maintained".

Today, Mexico will vote in favour of draft resolution A/ES-10/L.18/Rev.1, as orally amended in its provisional form, in order to manifest our deep esteem for and confidence in the International Court of Justice and because we greatly appreciate the fact that the Court, having agreed to rule on the question formulated, offers the parties in conflict and the international community as a whole legal rulings of great significance that will contribute to finding a lasting and strictly legal solution to the Israeli-Palestinian conflict.

Mexico, which accepted the binding authority of the International Court of Justice at the time of its creation, has turned to it for both advisory opinions and the settlement of legal disputes. Our confidence in that high organ has only grown over the years. The objectivity and great care taken with both the form and the content of its decisions strengthen the legality and the certainty on which relations between States shou'd rest. My Government welcomes the fact that Palestine, with the support of the General Assembly, has been able to turn to the only international court to which it has access. In good faith, Palestine submitted to the Court fundamental legal questions that are key for solving the complex conflict that has stained with blood the Palestinian and Israeli peoples.

Mexico believes that with this advisory opinion, the Court has contributed significantly to clarifying the scope of applicable norms of international law, including international humanitarian law and international human rights law, as well as the scope of the relevant resolutions of the General Assembly and the Security Council. We hope that the Court's legal rulings will mark a new stage in the search for a solution ensuring lasting peace for Israel and Palestine within borders that are secure and internationally recognized — but that are also secure.

As a Member of the Organization aware of its obligations, Mexico fully adheres to the Court's recommendations to Member States and expresses its complete readiness to act accordingly.

Finally, Mexico respectfully calls on the Security Council to consider the Court's recommendations to it and to consider what additional measures are necessary to put an end to the illegal situation created by the construction of the wall.

The President: We have heard the last speaker in explanation of vote before the vote.

The Assembly will now take a decision on draft resolution A/ES-10/L.18/Rev.1, entitled "Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem", as orally amended in its provisional form..

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Afghanistan, Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic

Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Against:

Australia, Israel, Marshall Islands, Micronesia (Federated States of), Palau, United States of America

Abstaining:

Cameroon, Canada, El Salvador, Nauru, Papua New Guinea, Solomon Islands, Tonga, Uganda, Uruguay, Vanuatu

Draft resolution A/ES-10/L.18/Rev.1, as orally amended in its provisional form, was adopted by 150 votes to 6, with 10 abstentions (resolution ES-10/15).

The President: Before giving the floor to those representatives who wish to speak in explanation of vote on the resolution just adopted, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Gillerman (Israel): I should like to start with a vote of thanks: thank God that the fate of Israel and of the Jewish people is not decided in this room.

Let there be no mistake: Israel has respect for the Assembly and for the noble principles for which it stands. It is precisely because of this respect that we cannot but be dismayed that harmful and politicized interests too often seek to gain control of its mandate and activities. It was that principled position that led many States to join Israel in objecting to the abuse of the International Court of Justice last December, and it is that same position that should have led States to object to the resolution voted on today.

In this context, we would like to express our sincere appreciation to those States that decided not to support today's one-sided and totally counterproductive resolution.

Sadly, the Assembly has missed yet another opportunity to make a relevant contribution to the cause of peace, by pandering to an agenda that seeks to focus on the response to terrorism, but also to marginalize the gravity of terrorism itself and the responsibility of the Palestinians to end their terror. This resolution cannot but embolden those who are the true enemies of Israeli and Palestinian people.

We recognize the efforts of certain States that have sought to introduce some semblance of balance into the text of the resolution. But in our view that was not the issue here. It is not about grudging references to terrorism or carefully crafted, often constructively ambiguous, phrases. It is about whether States will grant legitimacy to initiatives that, at their heart, are at odds with the very spirit and letter of the road map. It is about whether States will entertain, with polite diplomacy, efforts that are so transparently designed to ensure that no genuine pressure is ever brought to bear against the terrorism that made the security fence necessary and that at this moment — and at every moment — is sabotaging the prospects for peace. It is about whether, in addressing an issue of direct relevance to a country's national security — of direct relevance to the life and death of its citizens — the Assembly can afford to show such little regard for Israel's right and duty to protect its people.

There is a broader context and a wider goal that this resolution belittles, if not ignores. A central part of that context is the continuing threat to peace and to lives posed by the deadly violence that, just today, claimed the lives of two Israeli soldiers — killed by yet another Hizbullah violation of the Blue Line. Without a comprehensive approach to the obligation of all

parties — an approach that is so lacking in this myopic resolution — we cannot move towards peace. Those States that recognized the harmful and perverse nature of the advisory opinion request, especially those that are members of the Quartet, are in our view duty-bound to demand an end to the Palestinian abuse of United Nations organs, not to engage with them.

The ill-conceived resolution, and those that will no doubt follow, will only complicate the mutual implementation of the road map and erode its central status. In order to return to the path of peace, passing references to the road map and the mutual obligations of both sides cannot be treated as bargaining chips for which concessions are demanded and given. In terms of returning to the path of peace, a total disregard for Israel's bold and courageous initiative to disengage from Gaza and parts of the West Bank can only be interpreted as a decision by those countries which supported the resolution to disengage themselves from the reality in the region. It does not bode well, and it casts serious doubt on the ability of those States to contribute to the peace process.

In order to return to the path of peace, we should not allow the misuse of the International Court of Justice to take centre stage, while pushing the imperative of mutual recognition and mutual compromise to the sidelines. And in order to return to the path of peace, we should not be so detached from reality as to treat an advisory opinion as though it were binding and binding Palestinian obligations as though they were non-existent.

This is not a recipe for progress. It is a sure recipe for failure. Regardless of actual events on the ground, we can all rest assured that a new set of virtual-reality draft resolutions will be presented in September when the Palestinian representative hopes that more public attention can be drawn to the matter. After all, as long as these self-serving Palestinian drafts are viewed as the basis for negotiations, rather than as the basis for failure, we should not expect anything different.

We will not repeat any of our comments regarding the advisory opinion and the tainted process that created it. We believe that our statement on Friday speaks for itself. Israel is not above the law. Israel will ensure that the route of the security fence complies fully with the requirements of international law, as detailed by its Supreme Court. We will continue our thorough review of the entire route of the fence, subject to judicial scrutiny, and we will ensure that the correct and legal balance is struck between the quality of life of individuals living along the fence and the right to life of the civilians protected by it. But we reject absolutely the attempt to use the law as a political weapon, as if the law applies to Israel but does not apply to anyone else. When all is said and done, it is simply outrageous to respond with such vigour to a measure that saves lives and to respond with such casual indifference and apathy to the ongoing campaign of Palestinian terrorism that takes lives. This is not justice, but a perversion of justice, and people of conscience around the world see it as such.

The price of the international community's indifference towards Palestinian lawlessness has been painfully evident in the last few days. That lawlessness and violence, bred by Arafat's corrupt and repressive rule, has received none of the Assembly's attention, but it is at the heart of the problem. The Palestinian representative will no doubt blame the recent chaos in Gaza on Israel, too.

But that view is clearly not shared by many ordinary Palestinians who actually live in the region. Anyone familiar with the reality on the ground knows that Arafat and his henchmen, having sponsored and tolerated terrorism for so long and having refused to allow security reform, as required by the road map, have proved that they are neither willing to be partners in peace nor ready to meet the responsibilities of democratic leadership for their own people.

Sadly, the Assembly, by buying into a mock narrative that fails to genuinely demand anything from the Palestinian leadership, has reinforced their sense of impunity and done nothing to compel them to rethink their catastrophic strategy.

Last December, a disservice was done by the Assembly not just to the International Court of Justice but to the balanced and non-selective application of the rule of law. Today, we believe, the Assembly has compounded that error. The reputation and credibility of international judicial institutions are the worse for it; the claim of the Assembly to legitimacy in dealing with this conflict is the worse for it; and the Israeli and Palestinian people are the worse for it.

Mr. Van den Berg (Netherlands): I have the honour to speak on behalf of the European Union. The candidate countries — Bulgaria, Romania, Turkey and

Croatia; the countries of the Stabilization and Association Process and potential candidates — Albania, Bosnia and Herzegovina, the former Republic of Macedonia, and Serbia and Montenegro — and the European Free Trade Association (EFTA) country Iceland, member of the European Economic Area, align themselves with this declaration.

The European Union acknowledges the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the occupied Palestinian territory, rendered on 9 July 2004. In the spirit of consensus, we voted in favour of the resolution that has just been adopted.

The European Union respects the International Court of Justice, and the advisory opinion largely coincides with the European Union's position on the legality of the barrier built by Israel on the Palestinian side of the Green Line. The European Union once again expresses its opposition to the route of the barrier being built in the occupied Palestinian territories, including in and around East Jerusalem.

The European Union will not conceal the fact that reservations exist on certain paragraphs of the Court's advisory opinion. We recognize Israel's security concerns and its right to act in self-defence. The European Union reconfirms its deep conviction that the Quartet road map, endorsed by Security Council resolution 1515 (2003), remains the basis for reaching a peaceful settlement. It calls on all sides to refrain from further escalation and to take the steps required to begin the implementation of the road map.

The most important step is for all sides to desist from all further acts of violence.

Ms. Jackson (Bahamas): The Bahamas delegation voted in favour of draft resolution A/ES-10/L.18/Rev.1, as orally amended, because of the Bahamas' unswerving commitment to the rule of international law and those institutions which promulgate such law.

While we fully appreciate the distinction between an advisory opinion and a ruling by the International Court of Justice, we would nonetheless wish to show our support for the International Court of Justice and the important role it plays in international affairs and, indeed, in strengthening multilateralism.

The Bahamas recognizes the right of each State to protect its people from violent and harmful acts, as well as the obligation to respect human rights and international humanitarian law. Accordingly, the Bahamas continues to call on all of the concerned parties to seek a lasting, peaceful settlement to the conflict in the Middle East.

Ms. Rivero (Uruguay) (*spoke in Spanish*): Uruguay does not reject or challenge the nature or the value of the advisory opinion. Far from it, it reiterates its commitment to international law and to the bodies responsible for its application, specifically the International Court of Justice.

Uruguay's abstention cannot and should not been seen as any kind of criticism of the International Court of Justice or of its advisory opinion. Uruguay abstained, as it did in the voting on draft resolution A/ES-10/L.14, on the understanding that the request made by the General Assembly for an advisory opinion dealt with only one aspect of a very long-standing and extremely complex issue.

We believe that the issue should be considered within the context of the overall situation and that, in selecting only one of the problems related to the question, we are not making a concrete contribution to the peace process in the Middle East. The reality is infinitely more complex. In that respect, my delegation reiterates once again its belief that returning to the road map, which represents a comprehensive approach to peace in the region, is the path to which we must urgently return.

Mr. Staehelin (Switzerland) (*spoke in French*): Switzerland supported the draft resolution that was put to the vote. The text reflects the basic position that expressed by the International Court of Justice in its advisory opinion of 9 July last. The resolution calls on the Government of Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and to report to the General Assembly on the matter, with a view to ensuring respect for international humanitarian law within the context of the Israeli-Palestinian conflict, by including the possibility of convening a Conference of High Contracting Parties.

Switzerland stands ready to accept such a mandate. We have done so in the past. Indeed, an invitation extended to Switzerland to conduct consultations of the Parties to the Geneva Conventions, with a view to eventually resuming the Conference of High Contracting Parties to the Fourth Geneva

Convention, is nothing new for our country. Such meetings have already taken place in Geneva, in 1997, 1998, 1999 and 2000.

The guiding principle of Switzerland's actions in this connection is based on the established parameters of its humanitarian policy which are fully applicable to the context of the Israeli-Palestinian conflict — that is to say, the promotion of the universality of respect for international humanitarian law; and the refusal to support any attempt to politicize or instrumentalize international humanitarian law.

Switzerland will therefore do its utmost, with a sense of humility, realism and commitment, in the discharge of its difficult mandate. It will commit itself to promoting respect for international humanitarian law and to the application of the Fourth Geneva Convention in the context of the Israeli-Palestinian conflict.

We will consult all the parties concerned with a view to determining ways and means to best discharge the mandate that has been entrusted to it by the Assembly.

In that context, in the view of Switzerland, convening an international conference is one of several options. We will strive to achieve greater respect for international humanitarian law by all parties.

Switzerland will also give particular attention to ensuring that all consultations it might conduct within the context of the mandate entrusted to it by the General Assembly contribute to supporting and facilitating the international community's efforts to find a negotiated political solution to the conflict.

Mr. Rock (Canada): At the time of the adoption of resolution ES-10/14, which referred this issue to the International Court of Justice, Canada questioned whether the request for an advisory opinion was a useful step, given the highly charged political environment that existed at the time — and that still prevails.

We acknowledge that there are elements of the advisory opinion of the International Court of Justice (ICJ) that reflect Canadian policy regarding the applicability of international law, including international humanitarian law, and opposition to the settlements within the Palestinian territories. Canada has opposed the construction of the barrier within the Palestinian territories and East Jerusalem, and we were encouraged by the recent decision of the Israeli High Court in that regard.

But in Canada's view, any action by the General Assembly should contribute to the aim of advancing a just, lasting and negotiated settlement to the conflict between Israelis and Palestinians. That includes any action in relation to the ICJ advisory opinion, which is meant to clarify some of the issues in order to assist the parties in reaching a peaceful settlement. As the Court itself noted, "the question of the wall is part of a greater whole" (*A/ES-10/237, p. 22*). We believe it is the responsibility of the General Assembly to consider the ICJ's opinion as part of that greater whole before adopting a resolution on the subject. In Canada's view, the resolution just adopted by the Assembly does not adequately discharge that responsibility.

To be sure, Canada remains concerned with the highly prejudicial impact the barrier may have on prospects for peace. The barrier's adverse effect on the ever more dire humanitarian and socio-economic situation of the Palestinian population in the occupied territories is indeed troubling. Although Israel has a right and a duty to protect its citizens, measures taken in that regard must be consistent with the applicable international humanitarian law, which is binding on all parties to the conflict.

But while we have serious concerns regarding the route of the barrier, the issue of the barrier cannot be viewed in isolation from Israel's security concerns. As the Court itself maintained, Israel has the right to take necessary measures to protect the security of its citizens and its borders from attacks by Palestinian terrorist groups, including by restricting access to its territory, but it must do so in accordance with international law, including the law of occupation. The resolution does not adequately reflect that reality.

Canada affirms the right of Israel to ensure its own security. Neither terrorism nor support for terrorists who target the innocent, in whatever form, to advance whatever cause, can ever be justified. At this time, Canada believes that it is the responsibility of the international community, including the Assembly, to help create conditions favourable to the peaceful resolution of the conflict in the context of the Quartet's road map. However, we do not believe that this resolution, which seeks to implement the Court's opinion as if it were a binding decision instead of an advisory opinion, and which does not adequately

reflect the current situation of the larger conflict, will help advance the cause of peace. For those reasons, Canada chose to abstain in the vote on this resolution.

Mr. Strømmen (Norway): The advisory opinion of the International Court of Justice confirms with an overwhelming majority that the wall violates international law and that those parts of the structure situated within the occupied Palestinian territory, including in and around East Jerusalem, must be dismantled. The Court's conclusions concur with Norway's views, and we therefore voted in favour of the resolution. A united international community, headed by the Quartet, must continue its efforts to revitalize the political process and to get the parties back to the negotiating table. The tragic situation in the Middle East can be brought to an end only through the implementation of all relevant Security Council resolutions.

Both parties must respect their obligations and adjust their policies so as to be in accordance with the road map. The Palestinian Authority must do more to fulfil its obligations to reorganize its security apparatus and thus enable it to fight terrorism more effectively. It is crucial that Israel address its security needs within the confines of international law. Norway calls upon Israel to comply with its legal obligations as identified in the advisory opinion.

Mr. Rehren (Chile) (*spoke in Spanish*): The foundations of Chile's general position on the Middle East conflict, whose essential elements are strict respect for the norms and principles of international law, have enabled my country to reconcile the general guidelines of our foreign policy with the promotion of our bilateral relations both with Israel and with Palestine and the Arab countries insofar as the parties respect the basic principles to which I have just referred. In conformity with that overall policy, my Government is opposed to all acts of terrorism, whether perpetrated by States or isolated extremist groups. We categorically reject selective killings, suicide attacks and all acts of violence affecting innocent civilians.

We voted in favour of resolution ES-10/15, adopted today, which acknowledges the advisory opinion of the International Court of Justice of 9 July. We particularly value the final preambular paragraph of the resolution, which states that respect for the International Court of Justice and its functions is essential to the rule of law and reason in international affairs.

Nevertheless, it had been our hope that the resolution could have included an explicit reference to Israel's right and duty to protect the lives of its citizens against indiscriminate and deadly acts of violence, in conformity with applicable international law, as noted in paragraph 141 of the International Court of Justice advisory opinion itself.

Mr. Alimov (Tajikistan) (*spoke in Russian*): I would like to inform the General Assembly that after 30 June, the delegation of Tajikistan temporarily lost the right to an exemption under Article 19 of the Charter. Accordingly, my delegation was not able to participate in today's vote. Had we been able to do so, we would have voted in favour of resolution ES-10/15, which we support.

The President: We have heard the last speaker in explanation of vote after the vote.

I now give the floor to the observer of Palestine.

Mr. Al-Kidwa (Palestine): The debate has been concluded. We believe that it is time for implementation, for compliance and, at a later stage, for additional measures. We are not going to respond to some of the comments that we heard earlier. We have taken the floor simply to express our deep appreciation and thanks to all for the magnificent results that were achieved today in support of international law and in support of peace and reconciliation in the Middle East.

We want specifically to thank you, Mr. President, for your leadership and for your patience — something which we also thank all Member States for demonstrating. Of course, our deep appreciation goes to the sponsors of the draft resolution and to all those who supported its earlier versions, especially members of the Non-Aligned Movement and members from the three regions of Africa, Asia and Latin America. Moreover, we appreciate the efforts of all those who tried hard to reach agreement with us and to broaden the support for such an important resolution. I would like to mention specifically the European Union in that regard.

The advisory opinion of the International Court of Justice that was rendered on 9 July is a historic development. The advisory opinion identified and affirmed the legal aspects related to the construction of the wall in the occupied Palestinian territory, including

in and around East Jerusalem, as well as the legal aspects of the question of Palestine and the Israeli-Palestinian conflict. We believe it is the most important development within the United Nations system since the partition plan.

Today's General Assembly resolution — especially since it was adopted by such an overwhelming majority — also represents a very important development. I might say that it could indeed be the most important resolution of the General Assembly, again, since the adoption of resolution 181 (II) of 1947. We are confident that all Member States will deal with the provisions of the present resolution with the needed utmost seriousness with regard to their implementation.

Finally, I would like, on behalf of our people and our leadership, to thank the General Assembly and all its members for doing such a great job today. Permit me also to express once again our thanks and appreciation to the judges of the International Court of Justice.

The President: At this stage, I should like to thank all members for their patience and forbearance.

The tenth emergency special session of the General Assembly is now adjourned, in accordance with the terms of paragraph 8 of resolution ES-10/15, adopted at the present meeting.

The meeting rose at 7.55 p.m.